

111TH CONGRESS
1ST SESSION

S. 1242

To prohibit the Federal Government from holding ownership interests, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2009

Mr. THUNE (for himself, Mr. COBURN, Mr. INHOFE, Mr. VITTER, Mr. JOHANNIS, Mr. CORNYN, Mr. KYL, Mr. McCONNELL, Mr. BARRASSO, and Mr. ENSIGN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To prohibit the Federal Government from holding ownership
interests, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Government Owner-
5 ship Exit Plan Act of 2009”.

6 **SEC. 2. DEFINITION.**

7 In this Act—

8 (1) the term “ownership interest” means an in-
9 terest in a troubled asset described in section

1 3(9)(B) of the Emergency Economic Stabilization
 2 Act of 2008 (12 U.S.C. 5202(a)(1)), as in effect on
 3 the day before the date of enactment of this Act,
 4 that was purchased by the Secretary under section
 5 101(a)(1) of such Act (12 U.S.C. 5211(a)(1)); and
 6 (2) the term “Secretary” means the Secretary
 7 of the Treasury.

8 **SEC. 3. RE-PRIVATIZATION OF PRIVATE ENTITIES.**

9 (a) PROHIBITION ON FEDERAL GOVERNMENT HOLD-
 10 ING OWNERSHIP INTERESTS.—

11 (1) IN GENERAL.—Beginning on the date of en-
 12 actment of this Act, the Federal Government may
 13 not acquire, directly or indirectly, any ownership in-
 14 terest.

15 (2) DIVESTITURE.—Except as provided in sub-
 16 section (b), the Secretary shall divest the Federal
 17 Government of any ownership interest not later than
 18 July 1, 2010.

19 (b) LIMITED AUTHORITY.—

20 (1) IN GENERAL.—Beginning on July 1, 2010,
 21 the Secretary may hold an ownership interest with
 22 respect to a particular entity for a period of not
 23 more than 6 months if, not later than July 1, 2010,
 24 the Secretary submits a report to Congress with re-
 25 spect to that entity stating that—

1 (A) compliance with subsection (a)(2) with
2 respect to such entity would have a significant
3 adverse impact on the taxpayers of the United
4 States; and

5 (B) there is a reasonable expectation that
6 a waiver of subsection (a)(2) would allow the
7 Secretary to recover the cost to the Federal
8 Government of acquiring such ownership inter-
9 est.

10 (2) SINGLE RENEWAL.—The Secretary may
11 renew an extension under paragraph (1) for a single
12 period of not more than 6 months, if the Secretary
13 submits to Congress a report stating that the condi-
14 tions described in subparagraphs (A) and (B) of
15 paragraph (1) still exist with respect to the subject
16 ownership interest.

17 (c) CONFORMING AMENDMENT.—Section 3(9) of the
18 Emergency Economic Stabilization Act of 2008 (12
19 U.S.C. 5202(9)) is amended—

20 (1) in subparagraph (A), by striking “; and” at
21 the end and inserting a period;

22 (2) by striking “means—” and all that follows
23 through “residential” in subparagraph (A) and in-
24 serting “means residential”; and

25 (3) by striking subparagraph (B).

1 (d) DEPOSIT OF FUNDS.—

2 (1) IN GENERAL.—Section 115(a)(3) of the
3 Emergency Economic Stabilization Act of 2008 (12
4 U.S.C. 5225(a)(3)) is amended by striking “out-
5 standing at any one time”.

6 (2) DEPOSIT OF FUNDS INTO TREASURY.—

7 (A) IN GENERAL.—On and after the date
8 of enactment of this Act, all repayments of obli-
9 gations arising under the Emergency Economic
10 Stabilization Act of 2008 (12 U.S.C. 5201 et
11 seq.), and all proceeds from the sale of assets
12 acquired by the Federal Government under that
13 Act, shall be paid into the general fund of the
14 Treasury for reduction of the public debt, in ac-
15 cordance with section 106(d) of that Act (12
16 U.S.C. 5216(d)), as amended by this sub-
17 section.

18 (B) CONFORMING AMENDMENT.—Section
19 106(d) of the Emergency Economic Stabiliza-
20 tion Act of 2008 (12 U.S.C. 5216(d)) is amend-
21 ed by inserting “, and repayments of obligations
22 arising under this Act,” after “section 113”.

23 (e) INFLUENCE OF MANAGEMENT DECISIONS.—Title
24 I of the Emergency Economic Stabilization Act of 2008

1 (12 U.S.C. 5211 et seq.) is amended by adding at the end
2 the following:

3 **“SEC. 137. INFLUENCE OF MANAGEMENT DECISIONS.**

4 “(a) DEFINITIONS.—For purposes of this section—

5 “(1) the term ‘covered person’ means any per-
6 son who is an officer or employee (including a spe-
7 cial Government employee (as defined in section
8 202(a) of title 18, United States Code)) of the exec-
9 utive branch of the United States (including any
10 independent agency of the United States); and

11 “(2) the term ‘significant management decision’
12 includes the appointment of senior executives or
13 board members, business strategies relating to pro-
14 duction and manufacturing, plant closings, the relo-
15 cation of the headquarters of an entity, the modifica-
16 tion of labor contracts, and other financial decisions.

17 “(b) INFLUENCE PROHIBITED.—

18 “(1) IN GENERAL.—It shall be unlawful for any
19 covered person to knowingly make, with the intent
20 to influence, a communication regarding a signifi-
21 cant management decision of a recipient of assist-
22 ance under this title to any officer or employee of
23 the recipient.

24 “(2) CRIMINAL PENALTY.—Any covered person
25 who violates paragraph (1) shall be fined under title

1 18, United States Code, imprisoned for not more
2 than 1 year, or both.

3 “(c) CIVIL ACTIONS.—

4 “(1) IN GENERAL.—The Attorney General of
5 the United States may bring a civil action in an ap-
6 propriate United States district court against any
7 covered person to enforce subsection (b).

8 “(2) CIVIL PENALTY.—Any covered person who,
9 upon proof by a preponderance of the evidence, vio-
10 lates subsection (b) shall be subject to a civil penalty
11 of not more than \$50,000 for each violation. The
12 imposition of a civil penalty under this paragraph
13 shall not preclude any other criminal or civil statu-
14 tory, common law, or administrative remedy, which
15 is available by law to the United States or any other
16 person.

17 “(3) ORDERS.—If the Attorney General of the
18 United States has reason to believe that a covered
19 person is engaging in conduct that violates sub-
20 section (b), the Attorney General may petition an
21 appropriate United States district court for an order
22 prohibiting the covered person from engaging in the
23 conduct. The court may issue an order prohibiting
24 the covered person from engaging in the conduct if
25 the court finds that the conduct constitutes a viola-

1 tion of subsection (b). The filing of a petition under
 2 this paragraph shall not preclude any other remedy
 3 which is available by law to the United States or any
 4 other person.”.

5 (f) FEDERAL DEPOSIT INSURANCE CORPORATION.—
 6 Nothing in this Act may be construed to impede the ability
 7 of the Federal Deposit Insurance Corporation to maintain
 8 the stability of the banking system.

9 **SEC. 4. OVERSIGHT BY FINANCIAL STABILITY OVERSIGHT**
 10 **BOARD.**

11 Section 104(a) of the Emergency Economic Stabiliza-
 12 tion Act of 2008 (12 U.S.C. 5214(a)) is amended—

13 (1) in paragraph (2), by striking “and” at the
 14 end;

15 (2) in paragraph (3), by striking the semicolon
 16 at the end and inserting “; and”; and

17 (3) by adding at the end the following:

18 “(4) reviewing the implementation of section 3
 19 of the Government Ownership Exit Plan Act of
 20 2009.”.

21 **SEC. 5. REPORTS REQUIRED.**

22 (a) REPORT ON FEDERAL GOVERNMENT OWNER-
 23 SHIP.—

24 (1) REPORTS REQUIRED.—The Secretary shall
 25 make (and shall publicly disclose) periodic reports

1 detailing any ownership interest held by the Federal
2 Government, including any loan or loan guarantee
3 made by the Board of Governors of the Federal Re-
4 serve System.

5 (2) TIMING OF REPORTS.—The Secretary shall
6 submit the reports under paragraph (1)—

7 (A) not later than October 1, 2009; and

8 (B) each quarter of the fiscal year there-
9 after.

10 (b) REPORTS ON WINDING DOWN OR DIVEST-
11 MENT.—

12 (1) REPORTS REQUIRED.—The Secretary shall
13 submit to Congress periodic reports on the plans of
14 the Secretary for compliance with this Act, including
15 any plans to wind down or divest an ownership in-
16 terest.

17 (2) TIMING OF REPORTS.—The Secretary shall
18 submit the reports under paragraph (1)—

19 (A) not later than April 1, 2010; and

20 (B) each month thereafter until all owner-
21 ship interests are divested under section
22 3(a)(2).

1 **SEC. 6. PLAN FOR GOVERNMENT SPONSORED ENTER-**
2 **PRISES.**

3 Not later than 90 days after the date of enactment
4 of this Act, the Secretary shall submit to Congress a re-
5 port describing a plan of the Secretary—

6 (1) to end the conservatorship by the Federal
7 Government of the Federal National Mortgage Asso-
8 ciation and the Federal Home Loan Mortgage Cor-
9 poration; and

10 (2) to eliminate any form of direct ownership by
11 the Federal Government of the Federal National
12 Mortgage Association and the Federal Home Loan
13 Mortgage Corporation.

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